



# House of Representatives

## File No. 710

General Assembly

February Session, 2004

**(Reprint of File No. 494)**

House Bill No. 5608  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 1, 2004

### **AN ACT CONCERNING THE FUNDING OF MUNICIPAL CLEAN WATER PROJECTS AND THE REGISTRATION OF WATER DIVERSIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 22a-478 of the general statutes, as  
2 amended by section 1 of public act 03-218, is repealed and the  
3 following is substituted in lieu thereof (*Effective October 1, 2004*):

4 (c) The funding of an eligible water quality project shall be pursuant  
5 to a project funding agreement between the state, acting by and  
6 through the commissioner, and the municipality undertaking such  
7 project and shall be evidenced by a project fund obligation or grant  
8 account loan obligation, or both, or an interim funding obligation of  
9 such municipality issued in accordance with section 22a-479. A project  
10 funding agreement shall be in a form prescribed by the commissioner.  
11 Eligible water quality projects shall be funded as follows:

12 (1) A nonpoint source pollution abatement project shall receive a  
13 project grant of seventy-five per cent of the cost of the project

14 determined to be eligible by the commissioner.

15 (2) A combined sewer project shall receive (A) a project grant of fifty  
16 per cent of the cost of the project, and (B) a loan for the remainder of  
17 the costs of the project, not exceeding one hundred per cent of the  
18 eligible water quality project costs.

19 (3) A construction contract eligible for financing awarded by a  
20 municipality on or after July 1, 1999, as a project undertaken for  
21 nitrogen removal shall receive a project grant of thirty per cent of the  
22 cost of the project associated with nitrogen removal, a twenty per cent  
23 grant for the balance of the cost of the project not related to nitrogen  
24 removal, and a loan for the remainder of the costs of the project, not  
25 exceeding one hundred per cent of the eligible water quality project  
26 costs. Nitrogen removal projects under design or construction on July  
27 1, 1999, and projects that have been constructed but have not received  
28 permanent, clean water fund financing, on July 1, 1999, shall be eligible  
29 to receive a project grant of thirty per cent of the cost of the project  
30 associated with nitrogen removal, a twenty per cent grant for the  
31 balance of the cost of the project not related to nitrogen removal, and a  
32 loan for the remainder of the costs of the project, not exceeding one  
33 hundred per cent of the eligible water quality project costs.

34 (4) If supplemental federal grant funds are available for Clean Water  
35 Fund projects specifically related to the clean-up of Long Island Sound  
36 that are funded on or after July 1, 2003, a distressed municipality, as  
37 defined in section 32-9p, may receive a combination of state and  
38 federal grants in an amount not to exceed fifty per cent of the cost of  
39 the project associated with nitrogen removal, a twenty per cent grant  
40 for the balance of the cost of the project not related to nitrogen  
41 removal, and a loan for the remainder of the costs of the project, not  
42 exceeding one hundred per cent of the allowable water quality project  
43 costs.

44 (5) A municipality with a water pollution control project, the  
45 construction of which began on or after July 1, 2003, which has (A) a

46 population of five thousand or less, or (B) a population of greater than  
47 five thousand which has a discrete area containing a population of less  
48 than five thousand that is not contiguous with the existing sewerage  
49 system, shall be eligible to receive a grant in the amount of twenty-five  
50 per cent of the design and construction phase of eligible project costs,  
51 and a loan for the remainder of the costs of the project, not exceeding  
52 one hundred per cent of the eligible water quality project costs.

53 (6) Any other eligible water quality project shall receive (A) a project  
54 grant of twenty per cent of the eligible cost, and (B) a loan for the  
55 remainder of the costs of the project, not exceeding one hundred per  
56 cent of the eligible project cost.

57 (7) Project agreements to fund eligible project costs with grants from  
58 the Clean Water Fund that were executed during or after the fiscal year  
59 beginning July 1, 2003, shall not be reduced according to the provisions  
60 of the regulations adopted under section 22a-482.

61 [(8) On or after July 1, 2006, all eligible water quality projects eligible  
62 for funding shall receive a loan of one hundred per cent of the eligible  
63 costs and shall not receive a project grant.]

64 [(9)] (8) On or after July 1, 2002, eligible water quality projects that  
65 exclusively address sewer collection and conveyance system  
66 improvements may receive a loan for one hundred per cent of the  
67 eligible costs provided such project does not receive a project grant.  
68 Any such sewer collection and conveyance system improvement  
69 project shall be rated, ranked, and funded separately from other water  
70 pollution control projects and shall be considered only if it is highly  
71 consistent with the state's conservation and development plan, or is  
72 primarily needed as the most cost effective solution to an existing area-  
73 wide pollution problem and incorporates minimal capacity for growth.

74 [(10)] (9) All loans made in accordance with the provisions of this  
75 section for an eligible water quality project shall bear an interest rate of  
76 two per cent per annum. The commissioner may allow any project  
77 fund obligation, grant account loan obligation or interim funding

78 obligation for an eligible water quality project to be repaid by a  
79 borrowing municipality prior to maturity without penalty.

80 Sec. 2. Section 22a-368a of the general statutes is repealed and the  
81 following is substituted in lieu thereof (*Effective October 1, 2004*):

82 (a) The Commissioner of Environmental Protection shall publish a  
83 dated notice of (1) the availability of [a form] forms for the reporting of  
84 operating data for diversions pursuant to this section, and (2) a  
85 deadline for submission of such [form] forms. Such [form] forms shall  
86 be developed [by the Commissioner of Environmental Protection, in  
87 consultation with the Commissioners of Public Health and Agriculture  
88 and the chairperson of the Public Utilities Control Authority] pursuant  
89 to subsection (b) of this section.

90 (b) Any person or municipality maintaining a diversion that was  
91 registered in accordance with the provisions of section 22a-368 and  
92 which continues to be in use as of July 1, 2001, shall report to the  
93 Commissioner of Environmental Protection current operating data for  
94 such diversion not later than six months after the publication of notice  
95 pursuant to subsection (a) of this section and annually thereafter not  
96 later than January thirty-first. Such data shall be provided on [a form]  
97 forms developed by the Commissioner of Environmental Protection, in  
98 consultation with the Commissioners of Public Health, Public Utility  
99 Control and Agriculture and the working group established pursuant  
100 to subsection (f) of this section. Such forms shall be in a format  
101 determined by the Commissioner of Environmental Protection. Such  
102 data shall include [monthly data for the calendar years 1997 to 2001,  
103 inclusive, (1) for the actual frequency and actual rate] the most detailed  
104 available monitoring data collected for each subsequent calendar year,  
105 provided such data shall not be required to be detailed more  
106 frequently than daily. [of water withdrawals or discharges of such  
107 diversion if such diversion is metered, or (2) that estimates the]  
108 Engineering estimates of withdrawals or discharges may be permitted  
109 in the absence of a meter. A person or municipality maintaining a  
110 diversion exclusively for agricultural purposes may report estimated

111 water use for the reporting period. The provisions of this subsection  
112 shall not apply to an owner or operator of an existing electric  
113 generating facility utilizing fossil fuel, provided the diversion is used  
114 to comply with state and federal environmental laws, and further  
115 provided such owner or operator reports to the Commissioner of  
116 Environmental Protection an estimate of future water use necessary to  
117 comply with state and federal environmental laws.

118 (c) Any person or municipality maintaining a diversion that was  
119 eligible for registration in accordance with section 22a-368 but failed to  
120 so register, which diversion continues to be in use as of July 1, 2001,  
121 shall report to the commissioner the operating data for such diversion  
122 not later than six months after the publication of notice pursuant to  
123 subsection (a) of this section. Such data shall be provided on a form  
124 developed by the Commissioner of Environmental Protection, in  
125 consultation with the Commissioners of Public Health, Public Utility  
126 Control and Agriculture. Such data shall include (1) the location,  
127 capacity, frequency and rate of withdrawals or discharges of such  
128 diversion as of July 1, 1982, (2) a description of the water use and water  
129 system on or before July 1, 1982, including information to evidence its  
130 operation at that time, and (3) the monthly data for the calendar years  
131 1997 to 2001, inclusive, (A) for the actual frequency and actual rate of  
132 water withdrawals or discharges of such diversion if such diversion is  
133 metered, or (B) that estimates the withdrawals or discharges in the  
134 absence of a meter. A person or municipality maintaining a diversion  
135 exclusively for agricultural purposes may report estimated water use  
136 for the reporting period in subdivision (3) of this subsection.

137 (d) Any person or municipality maintaining a diversion that was  
138 not eligible for registration in accordance with section 22a-368 and is  
139 not currently authorized by permit issued by the commissioner  
140 pursuant to said section, which diversion is in use as of July 1, 2001,  
141 shall report to the Commissioner of Environmental Protection  
142 operating data for the diversion not later than six months after the  
143 publication of notice pursuant to subsection (a) of this section. Such  
144 data shall be provided on a form developed by the Commissioner of

145 Environmental Protection, in consultation with the Commissioners of  
 146 Public Health, Public Utility Control and Agriculture. Such data shall  
 147 include (1) information as to when the diversion was initiated, (2) a  
 148 description of the water use and water system operation, and (3) the  
 149 monthly data for the calendar years 1997 to 2001, inclusive, (A) for the  
 150 location, capacity, actual frequency and actual rate of water  
 151 withdrawals or discharges of said diversion if such diversion is  
 152 metered, or (B) that estimates the withdrawals or discharges in the  
 153 absence of a meter. A person or municipality maintaining a diversion  
 154 used exclusively for agricultural purposes may report estimated water  
 155 use for the reporting period in subdivision (3) of this subsection.

156 (e) Information reported by a person or municipality for the  
 157 purposes of subsection (c) or (d) of this section shall not be used by the  
 158 Commissioner of Environmental Protection to order the payment of  
 159 civil penalties pursuant to section 22a-6b and subsection (b) of section  
 160 22a-376 provided the person or municipality has filed a permit  
 161 application pursuant to section 22a-368 on or before July 1, 2003. This  
 162 subsection shall not apply to any information the commissioner can  
 163 document independent of a submission pursuant to this section.  
 164 Failure to report the information required in this section may result in  
 165 civil penalties in accordance with section 22a-6b and subsection (b) of  
 166 section 22a-376.

167 (f) The Water Planning Council shall appoint at least five persons  
 168 who are required to register diversions pursuant to this section to a  
 169 working group for the purpose of developing forms pursuant to  
 170 subsection (b) of this section. Such members shall serve at the pleasure  
 171 of the council.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### ***OFA Fiscal Note***

#### ***State Impact:***

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Environmental Protection	GO Bond Funds - Precludes Potential Savings	None	None
Department of Environmental Protection	GF/Environmental Quality - Cost	Minimal	Minimal

#### ***Municipal Impact:***

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Precludes Potential Cost	None	None

### ***Explanation***

This bill retains current practice by repealing a July 1, 2006 sunset provision. It precludes a potential savings to the state and a cost to various municipalities, to the extent that an increased amount of GO bond funds would need to be authorized to continue to provide grants under the Clean Water Fund. Any increase in authorizations would result in an increase in General Fund debt service costs in future years. The fiscal impact would depend upon the projects approved for funding and the level of GO bond financing, and is indeterminate.

Any increase in the Department of Environmental Protection's (DEP) workload, or other members of the Water Planning Council due to development of forms is anticipated to be minimal and within routine agency duties. DEP will also incur a minimal workload increase due to receipt of the water diversion reports containing the information specified in the bill, in a format to be determined by DEP.

Any increase in the workloads of municipalities due to reporting water diversions is anticipated to be minimal and within resources.

House "A" adds the provisions concerning water diversions and has a minimal fiscal impact.



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**OLR BILL ANALYSIS**

HB 5608 (as amended by House "A")\*

**AN ACT CONCERNING FUNDING TO MUNICIPALITIES FOR CLEAN WATER PROJECTS****SUMMARY:**

This bill requires people or municipalities that maintain registered water diversions in use as of July 1, 2001 to annually report detailed monitoring data about them to the Department of Environmental Protection (DEP) on reporting forms the DEP commissioner develops. Current law requires that he develop a form after consulting with certain other agency heads. The bill requires him to develop multiple forms after consulting with those agency heads and a five-member working group it creates.

It allows the DEP to continue to provide grants to eligible water quality projects after July 1, 2006 by repealing a law restricting such projects only to loans after that date.

\*House Amendment "A" adds the provision on registered diversions.

EFFECTIVE DATE: October 1, 2004

**WATER DIVERSIONS**

Current law requires people or municipalities who maintain registered diversions in use as of July 1, 2001 to report to DEP current operating data no later than six months after DEP notified them of the availability of a reporting form, and monthly data from 1997 to 2001. The reports must include (1) the actual frequency and rate of metered withdrawals or discharges or (2) estimates of un-metered withdrawals or discharges.

The bill instead requires these people and municipalities to report annually to DEP the most detailed available monitoring data, but it does not require them to report data on more than a daily basis. It

authorizes the DEP commissioner to permit the reporting of engineering estimates for un-metered diversions.

As under current law, these people and municipalities must file their first report no later than six months after the commissioner notifies them of the forms' availability. However, the bill requires them to annually file subsequent reports by January 31.

### ***Reporting Forms***

By law, the commissioner must publish notice of the availability of a reporting form and the deadline for its submission. He must develop this form after consulting with the public health and agriculture commissioners and the Public Utility Control Authority (PUCA) chairperson. Under the bill, he must (1) instead develop multiple reporting forms in a format he determines and (2) also consult with a five-person working group the Water Planning Council appoints. Working group members must be people required to register diversions. They serve at the council's pleasure. The council consists of the PUCA chairperson, the DEP and public health commissioners, and the Office of Policy and Management secretary, or their designees.

## **BACKGROUND**

### ***Permitted and Registered Water Diversions***

By law, water diversions include withdrawals of more than 50,000 gallons from wells or surface water in any 24-hour period and certain other activities. Since July 1, 1982, any person or municipality maintaining such a diversion must obtain a DEP water diversion permit. Those who maintained a water diversion before July 1, 1982 do not need a permit but had to register with the DEP commissioner.

### ***Water Quality Project Grants***

By law, eligible water quality projects generally receive grants for 20% of their cost and a loan for the remainder. Certain types of projects are eligible for larger grants.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Change of Reference

Yea 27 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report

Yea 45 Nay 0